

Department of Excise

OFFICE of The Commr

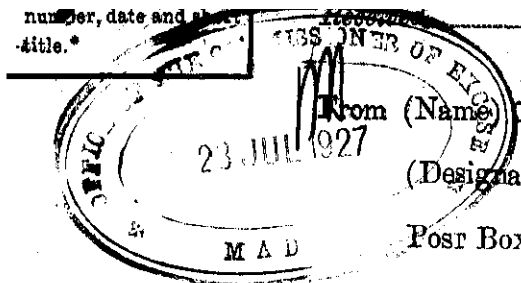
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Dated 7-9-27

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number, date and place
Title.



From (Name) C. B. Beadnell Esquire,

(Designation) Assistant Commissioner of Excise,

Post Box _____, (Station) West-Coast Division, Cannanore.

Telegraphic Address _____

To The Commissioner of Excise,

M A D R A S.

D. Dis. No. 1084/27, dated 23--7--27, 1927

Sir,

Reference:--Mangalore Inspector's letter C.R. 541
of 27 dated 22-6-1927.

ENCLOSURES.....

I submit herewith a copy of Mangalore

SPARE COPIES.....

Inspector's letter referred to above together with a copy
of the statement referred to ~~xxxxx~~ therein. It has been
ordered by me that all cases falling under Head IV should
be prosecuted before Magistrates and sentences of substantive
imprisonment pressed for. From the particulars furnished in
the statement it will be observed that even in serious
offences when large ~~quantities~~ quantities of arrack, materials
etc. for distillation were involved the accused were let
off with a nominal fine of Rs. 30 or Rs. 50 and that in a
case of actual distillation - item No. 3 - the accused was
let off with a fine of Rs. 50/- only. The punishment
inflicted by the Magistrate are no doubt very inadequate
and the orders to prosecute such cases have not had the
desired effect. I would therefore request the Commissioner
to draw the attention of the District Magistrate, South
Kanara to the cases under reference and issue necessary
instructions to the Magistrates concerned and also to the
subordinate magistracy in general. ~~xxxxxx~~ In many of the
I.D. cases the accused is only a tool in the hands of
some rich land lord who pays up any fine inflicted and
the accused of course is quite willing to distill ~~for~~
him again. It is only by inflicting imprisonment in
these cases that the accused can be made to realise that
it is not worth carrying on I.D. for their

masters. Mines will never put a stop to this evil.

W. A. C. C. 25/7
For Assistant Commissioner.

Copy to Inspector, Bangalore Circle.

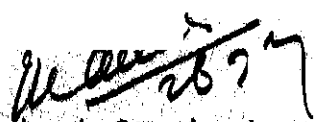
T N/25-7-1927.

25/7/27

Almost in every instance, the Sub Inspectors who conducted the prosecution of the cases urged the Court for deterrent punishments pointing out the gravity of the offences and the difficulty for detection and every time, the Sub Magistrate seems to have remarked that the court had a discretion in the matter. No body ever disputed ~~xxxx~~ the court's discretion. They simply pointed out the seriousness of the cases. From a perusal of the list, you will see that he has imposed a fine of Rs.10/- for a case under Head IV (C.R.No.397 of 26-27) - possession of 2½ maunds of fermented cashew wash fit for I.D. while for a similar case, the Bangalore Magistrate and the Puthur Magistrate have 2 months R.I. In a case in which the Buntwal Sub Inspector seized 1 gallon 2 grams of I.D.cashew arrack, 2 Mds of fermented cashew wash, utensils used in ~~the~~ illicit distillation, he gave 30 Rs. fine with no substantive punishment, though the Sub Inspector urged for deterrent punishments (C.R.No.70 of 27-28).

experience in court in getting through I.D. cases detected in this Circle besides getting heavier compounding fees to the Government than the inadequate fines imposed by the subordinated magistracy. Offenders often prefer to be set up before Magistrates as they know that they can get off with light fines before the Magistrates. I therefore request you will be pleased to move the Commissioner to ~~grant~~ permit Inspectors to compound all cases under Head IV when they think that compound fees will be paid by the accused.

Sd/-K.R. Chithambaram Iyer
23-6-1927
Inspector.


For Assistant Commissioner

Mud boiler, 1 mud pot smelling cashew wash, I.D. cashew arrack 37½ drs. Cloth used in place of perforator, copper condenser

Porcelaine jar with a gallon 42 drs I.D. arrack (cashew). Cashew wash in mud pot 2 mds, mud perforator 1, mud receiver, 1, rag 3.

Complete still and 8½ drs. of I.D. Palmyrah arrack detected in the act distillation.

Mud receiver 1, copper condenser mud perforator 1, cloth rags, mudboil 4 gallons of fermented cashew wash

Mud receiver 1, mud boiler 1, cashew wash 5 gallons 3½ drs. of I.D. cashew arrack, cloth used in place of perforator, cloth rags 4.

Mud boiler 1, copper condenser receiver 1, cloth rags 4, I.D. cashew arrack 8 drs.

12½ gals. of cashew wash and 1 gallon of I.D. cashew arrack.

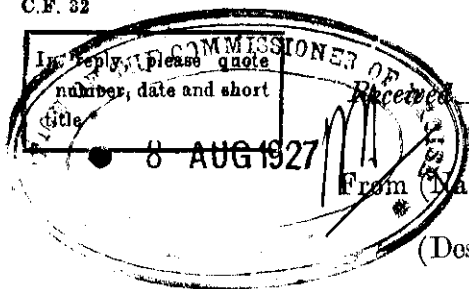
Cashew wash in 3 pots - 2½ drs

Cashew wash in a pot 2 mds. I.D. cashew arrack in a bottle 7 drs., in a jar 4½ drs., -do- in another bottle 6½ drs.

I.D. Palmyrah arrack in a bottle 2½ d:
- do - drops in another

sd/-K.R. Chithambara Iyer
23-6-1927
Inspector.

M. Allen
2577
For Assistant Commissioner



Registered

From (Name) E. K. Gawne, Esquire, I.C.S.,

(Designation) District Magistrate of South Kanara,

Post Box _____, (STATION) Mangalore.

Telegraphic Address _____

To The Secretary to the

Commissioner of Excise,

M a n g a l o r e.

L.Dis.No. 6022/27 dated 3rd August 1927.

Sir,

ENCLOSURES _____

Abkari - crime - prosecutions - inadequate punishment - brought to notice - reason - reported.

SPARE COPIES _____

H-9-11 (X)

Reference: Your R.No. 1515-Abk. dated 21st July 1927.

The Sub Divisional Magistrate, Mangalore has given reasons in the appeal judgment for reversing the lower court's sentence for the offence under section 55(g). The fault seems to lie in breaking up the offence into several sections which cannot be separately punished. I do not think that a District Magistrate can inform a Sub Divisional Magistrate that he ought to have upheld a certain sentence on appeal, especially when the Magistrate has given an adequate reason for his order.

B. As regards illicit distillation being prevalent in Mangalore Taluk, one of the chief reasons for this offence was pointed out by Mr. J. A. Saldanha in the Legislative Council viz., the inferior quality of Messrs. Parry & Co.'s liquor.

Your obedient servant,

District Magistrate.

OFFICE NOTE.

SUBJECT Crime
furnishments.

margin

From

The West Coast

(Register No. 69) 9927

Please see the letter from the West Coast Div. bringing to notice the inadequacy of the punishments inflicted by the 2nd Class Mag of Buntwal in certain cases under Head IV & V. A list of such cases furnished is on p 507. In the 10 cases reported, the Mag has inflicted a fine of Rs 50 in two cases, Rs 30 in 5 cases, Rs 25 in one case Rs 15 in another and Rs 10 in another. Except the case in CR 406/27-28 all the cases mentioned relate to illicit distillation or possession of SD implements and materials and that on a large scale. There is no question as to the extreme inadequacy of the

punishments inflicted. In CR 397/26-28 p13 & 50
for example, 2 1/4 drams of Calicut work and
2 1/4 drams of DD work were seized, but
the Mag. has erred on the side of extreme
leniency by inflicting a fine of Rs 10.

Under Section 55 of the Act, the
offender is on conviction by the Mag. liable
to be punished with a fine up to Rs 1000
or imprisonment up to 6 months or with both.

It will be clear that the intention
of the legislation is to ~~provide for~~ ^{provide for} deterrent
punishments for offences falling under
Section 55 of the Act. No doubt the

amount of fine ~~to~~ to be levied should
depend on the financial capacity of the
accused to pay it; there is no information
whether in the Cases noted by the Mag., the
accused were too poor to pay higher fines.

In any case, considering the gravity
of the offences committed the Mag. ought
to have inflicted a punishment of
imprisonment in case he could not,
in view of the accused's circumstances,
levy any substantial fines. In
a case reported by the Lahore High Court,
that Court held that a term of imprisonment
would be desirable in DD Cases.

the offence is ~~strict~~ in an ~~unusual~~
illicit liquor implies a good deal of
preparation in most cases it is done
with the intention of selling it to others
it can never be said to be done in
consequence of temptation it is an
offence which eludes detection & tin
out of it he derives both of revenue
believe demoralising the people and
that deterrence ~~unusually~~
absolutely necessary. and
therefore substantial terms of imprisonment
should be awarded

~~at~~ 16. AA has issued instructions the effect that
all cases under Ad IV should be prosecuted and
sentences of substantive imprisonment pronounced
for. The object of the HC order will be frustrated
unless highest only fines and that for low
amounts. In fact the HC himself has power to ex-
ceed up to Rs 200/- in each case.

40) The facts may be brought to

7827 Notice of the D

Queen MS
1078727
Yes, quoting
Lalini H.C.
for
11.8

OFFICE NOTE.

SUBJECT Crim abuse CR 385/26-25
Mangalore D inadequate sentence

From

The Dy Magr. - Kavaratti

Register No. 73347,

Please see the letter to the Dy Magr. Kavaratti on the 9-11 (X) and his reply in the current file. The Dy Magr. practically says accepts the Subd. Magr.'s judgment as correct. Obviously he had not grasped our point. No doubt the 2nd accused was guilty of illicit distillation and it would have been more correct had the prosecution charged him for an offence under Section 55(b) 'illicit manufacture' instead of putting up sections 55(a) & 55 and Section 55(g) of the Act. But the point raised by the Comr. was that since the appellate Court agreed with the lower Court's conviction ^{by the lower Court} for offences under

Sections 55(a) & 56 & 55(g), that Court
should have upheld the Conviction under
Section 55(g) also, While confirming the
sentence under sections 55(a) & 56 of the Act
that is to say, the appellate Court should
have included both ~~the~~ all the sections
While confirming the ~~sentence~~ ^{of fine} under Section
~~55 & 56~~ the fine of Rs 75. We did not
object to the ~~imposition~~ ^(sentence) of fine, inflicted
by the Lower Court. For reasons whether
this may be pointed out to the DM/JP
~~or~~ whether the matter may be stopped
The C had also pointed out to
the DM/JP that the punishment
inflicted by the Lower Court was inadequate
and urged the necessity for deterrent
punishments so as to facilitate the
suppression of the crime in the locality.
The DM/JP does not say anything regarding
this but states that one of the chief
reasons for the prevalence of the crime in Manipal
Taluk was pointed out by Mr. Saldanha
in ^{the} Legislative Council viz the inferior
quality of the liquor supplied by Messrs
Purvi & Co. The Legislative Council
question referred to was put in 1946
and with regard to that, instructions were

in that year issued from this office that
to Messrs Parry & Co to use new barrels
and turns of to regalanize the
old ones of to use wooden casks with
translucent glass so as to prevent
any discoloration of liquor sent from
the distillery to St. John's. The Cdr.
(Mr. Wells) himself had in Oct. 18 reported
in connection with a memorial, that
the state in ^{that memorial} that there was an
aversion to the next arrival

Manufactured at Melikuppam was
not home on by experience since
unhindered sales of their arrack were
up in soda water shops. Whether
the liquor now being supplied to the D.
is impure or discoloured the D. may
not choose to say, ^{and has probably not examined} Apart
from this the point raised by
him is not very relevant and
obscures the main question under
consideration which is about the
inequality of the brown rum supplied
by the Master. In the present
case the offence was one of illicit
distillation on a large scale and was
detected at dead of night after great
trouble.

10000 Shy route and another a
 And there is no question as to the inadequacy
 of the ~~present~~ sentence of a mere fine of Rs 135
 on each of the accused. All these points
 as well as the large prevalence of D
 crime. in the locality were urged before
 the D^y Magr, but the D^y Magr has apparently
 shelved this point and is silent as
 to whether he intends taking any action
 for ensuring the infliction of deterrent
 punishments by his subordinate Magrs
 for a file put up separately the ~~present~~
~~Magr~~ (the same ~~Magr~~). At West Coast he
 complained about the extremely trying
 ones inflicted by the subordinate Magr
 in certain D cases. For orders whenever
 the whole matter may be placed before
 Govt for necessary instructions
 to the D^y Magr as to whether there is
 sufficiency to address the D^y Magr again
 in the matter. The D^y Magr may be addressed

again with the above particulars ^{explaining} ~~the~~ ^{the} ~~one~~
 purpose fully.

11/8/51
 40
 1982

R
 23/8/51

P
 24.8

(C)

(24)

Draft below for approval

MK
 6/9/51

P
 7.9.51

Subject.
Illicit distillation and
Kindred offences South Kanara
district - inadequate punishment
To - St. Magistrate - addressed

THE
Read letter from A.C. Westcott to
Dis 1084/27 of 23-7-27 and from
Collector of S. Kanara & Dis 6022/27.
3-8-27

I am to hint that there
is para 3 of this office letter
of 15.15 alkari dated 21-7-27
as objection was raised to the
of sentence ordered
reduction by the abhellate

In para 2) of your letter read
over you ^{say} ~~have remarked~~ that
one of the chief reasons for the
prevalence of illicit distillation

Mangalore taluk ~~was~~ was pointed
out by Mr. Saldanha in the legislative
council (viz) the inferior quality

Messrs. J. J. and Co's liquor

question ^{was} raised by Mr. Saldanha

The legislative council ~~was~~ in 1

is not clear from your letter
whether the liquor now supplied

The district is discoloured or in
any way inferior. ~~The Council had~~

~~During~~ ^{the Comm} 1924 ^X issued instructions

district is not discoloured &
any liquor found discoloured
on verification at The W.H.
is ~~usually~~ returned to The dist
for re-distillation. The Comr
cannot ^{admit} ~~therefore~~ agree that
prevalence of illicit distilla
in South Kanara district
in any way due to The quality
of the licit liquor.

3/ The point urged in
Paragraph 2 ^{of this}
office letter No 1515 alkari

21-7-27 was that the puni-
ment inflicted in the case
question was not adequate
that magistrates should co-operate
in the suppression of grain
alkari crime by the infliction
of severe punishment. It is not
clear from your letter whether
you intend ^{issuing} the necessary instructions.

a large scale which was detected
at dead of night after great trouble
one of the accused was a taddy shop
owner bound by the ~~very~~ terms of his
license to safeguard Govt. revenue; ~~and~~
another accused was a landholder.

~~Below may be the general causes~~
~~for the prevalence of illicit distillation~~
~~in the district.~~ It cannot be expected
that a sentence of a mere fine of Rs 135/
on each of these accused will have
any deterrent effect.

7/ Besides the above case, certain other
~~cases~~ cases in which inadequate punishment
was inflicted have ~~now~~ ^{since} been brought to
the notice of the Commr. I am to
invite your attention to the judgments
~~noted~~ in C.C. Nos. noted in the
margin on the file of the sub-magte.

Budhwar Almost all these cases
related to illicit distillation and
conversion of J. D. implements and materials
on a large scale. The S.Ds who conducted
the prosecutions ~~in these cases~~ are reported
to have urged before the court the
necessity for deterrent punishment in view
of the gravity of the offences and the
difficulty of ~~the~~ detection. The magte. however

contented himself with inflicting
fines varying from Rs 10 to Rs 50/-
In the Commr's opinion there
can be no question as to the
~~extreme~~ inadequacy of the
punishments inflicted. In C.C.
NO 71/27 for instance, the accused
was arrested with 2 $\frac{1}{4}$ maunds of
cashew wash ~~besides 2 maunds~~
but was punished with a fine
of Rs 10/- - If sufficiently high
fines ~~cannot~~ ^{could not} be imposed ^{considering} the
proper course would have been
to inflict sentences of imprison-
ment. ~~Whatever may be the cause~~
~~for the prevalence of J. D. in the~~
~~district, it cannot in the Commr's~~
~~opinion be denied that the~~
infliction of such ~~inadequate~~ ^{inadequate} fine
^{stimulates crime -}
~~penalises it will only make the~~

in magistry to inflict
to enable ~~the~~ ^{deterrent} infliction of deterrent punishment.
~~in such cases by the magistracy.~~

I am to
draw your attention in this connection
to the ruling of The Punjab High Court
in Criminal Revision Case No 1127 of 1925 - pages
32-35 J.L.R. Lahore Series January 1926 and
the following ^{remarks of the High Court} ~~also expressed by the High Court~~

"The offence of manufacturing illicit liquor p 263
implies a good deal of preparation; in most
cases it is done with the intention of selling it
to others; it can never be said to be done in
consequence of temptation; it is an offence which
escapes detection in nine times out of ten, it
deprives Govt. of revenue besides demoralising
the people; ~~and that~~ ^{deterrent} sentences are
absolutely necessary."

^{Substantial terms of imprisonment}
~~and therefore substantial terms of imprisonment~~
^{should be awarded."}
~~should be awarded.~~